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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,894	06/29/2001	Manoel Tenorio	020431.0848	7075
53184	7590	03/22/2006	EXAMINER	
i2 TECHNOLOGIES US, INC. ONE i2 PLACE, 11701 LUNA ROAD DALLAS, TX 75234			CHEUNG, MARY DA ZHI WANG	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/895,894	TENORIO, MANOEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mary Cheung	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-4,7-10,12-14,17-20,22-24 and 27-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4,7-10,12-14,17-20,22-24 and 27-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Status of the Claims***

1. This action is in response to the RCE filed on January 3, 2006. Claims 2-4, 7-10, 12-14, 17-20, 22-24 and 27-34 are pending. Claims 1, 5-6, 11, 15-16, 21 and 25-26 are canceled. Claims 2-4, 7-10, 12-14, 17-20, 22-24 and 27-34 are amended.

### ***Response to Arguments***

2. Applicant's arguments filed January 3, 2006 have been fully considered but they are not persuasive.

The applicant argues that Downs (U. S. Patent 6,226,618) teaching the data related to the content but not include the content itself; thus, Downs fails to teach generate an algorithm for creating a particular pattern in data associated with one or more products available from one or more sellers as claimed in the independent claims 31-34. Examiner respectfully disagrees, because the phrase "associated with" does not necessarily mean "include". The dictionaries define the word "associated" as connect or link together; thus it is believed that as recognized by the applicant the examiner's interpretation "associated with" as "related to" fits dictionary definition.

In response to applicant's arguments about "sifting function" and "non-printable ASCII characters" in examiner's previous response, examiner would like to make it clear of her position. The concepts or the technologies of "sifting function" and "non-printable ASCII characters" are well known in the art, thus they are not invented by the applicant. As stated in the office action, Ogilvie (U. S. Patent 6,343,738) teaches sifting functions, and Kuo (U. S. Patent 6,230,288) teaches non-printable ASCII characters. Thus, it

would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the well known technologies which are also taught in Ogilvie and Kuo's teaching to modified Downs' teaching for better protecting the products from unauthorized access.

In response to the applicant's arguments that the cited prior art fail to teach the newly added limitations in claims 31-34, as explained the 35 USC 112 2<sup>nd</sup> paragraph rejection below that the newly added limitations is for intended uses or capabilities and thus they are not positive limitation. In addition, the combined teaching of Downs, Ogilvie, and Kuo is capable to perform the limitations.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 31-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 31-34 recite the limitations "...a sifting function capable of creating..., the sifting function is capable of altering...". Claim of intended uses or capabilities is not positive limitation, and the recitations are directed to the manner in which a claimed apparatus is intended to be used does not distinguish the claimed apparatus from the prior art (*In re Collier* 158 USPQ 266; *In re Schreiber*, 44 USPQ2d 1429 (Fed. Cir. 1997); See MPEP 2114 and *Ex parte Masham*, 2USPQ 1647 (1987)).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-4, 7-8, 12-14, 17-18, 22-24, 27-28 and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable Downs et al., U. S. Patent 6,226,618 in view of Ogilvie, U. S. Patent 6,343,738 and in further view of Kuo et al., U. S. Patent 6,230,288.

As to claims 4, 7, 14, 17, 24, 27 and 31-34, Downs teaches a system, a method and software for watermarking data associated with one or more products, comprising (column 7 line 41 – column 8 line 5 and Figs. 7-8):

a) Generate an algorithm for creating a particular pattern in data associated with one or more products available from one or more sellers (column 9 line 15 – column 10 line 18; *specifically, "a particular pattern" corresponds to the process for packing content and metadata in Downs' teaching*), the data comprising one or more of product attribute values, seller attribute values, and product descriptions for each of the one or more products, the data being stored in one or more databases accessible to one or more buyer computers for search queries for data associated with certain of the products, the pattern facilitating identification of a copy of the data and not affecting authorized use of the data by the one or more buyer computers or users associated with the buyers computers

(column 9 lines 15-32 and column 10 lines 4-18 and column 71 line 65 – column 71 line 48 and column 79 line 47 – column 80 line 5 and Figs. 1A-1D, 6);

b) Apply the algorithm to the data to create the particular pattern in the data (column 9 line 15 – column 10 line 18 and Figs. 7-8).

Downs does not specifically teach the algorithm is a sifting function. However, Ogilvie teaches an algorithm is a sifting function (column 20 lines 8-23 and column 21 line 45 – column 22 line 9; *specifically, deleting every Nth character in Ogilvie's teaching is an example of "a sifting function"*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the algorithm in Downs' teaching to include a sifting function for better protecting the products from unauthorized access.

Downs does not specifically teach the pattern including inserting non-printable ASCII characters throughout the data according to pre-defined arrangement. However, Ogilvie teaches a pattern comprises a plurality of ASCII characters inserted throughout the data according to a predefined arrangement; and a particular set of ASCII characters appearing after each instance of a particular group of characters in the data (column 20 lines 8-23 and column 21 line 45 – column 22 line 9). Furthermore, Kuo teaches inserting non-printable ASCII characters into a file (column 5 lines 5-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the pattern in Downs' teaching to include inserting non-printable ASCII characters as taught by Ogilvie and Kuo for better protecting the products from unauthorized access.

Furthermore, the sifting function in the combined teaching of Downs, Ogilvie and Kuo is capable of creating the particular pattern in the data for identifying the data and the source without adversely affecting the use of the data, the sifting function is capable of altering printable ASCII characters in the data, the pattern comprising a plurality of non-printable ASCII characters inserted throughout the data according to a pre-defined arrangement (see previous two paragraphs).

As to claims 2, 12 and 22, Downs teaches the one or more databases comprise seller databases associated with a particular seller (column 42 line 65 – column 43 line 56).

As to claims 3, 13 and 23, Downs teaches the one or more databases comprise a shared data repository (Figs. 1A-1D, 6).

As to claims 8, 18 and 28, Downs teaches storing ASCII characters (column 73 line 41-49). Downs does not specifically teach the pattern including a plurality of insertion, deletion, or modifications of printable ASCII characters in data according to a predefined arrangement. Ogilvie teaches the pattern comprises a plurality of insertion, deletion, or modifications of printable ASCII characters in data according to a predefined arrangement (column 20 lines 8-23 and column 21 line 45 – column 22 line 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the pattern in Downs' teaching to include a plurality of insertion, deletion, or modifications of printable ASCII characters in data according to a predefined arrangement as taught by for better protecting the products from unauthorized access.

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7. Claims 9, 19 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al., U. S. Patent 6,226,618 in view of Ogilvie, U. S. Patent 6,343,738, U. S. Patent 6,343,738 and Kuo et al., U. S. Patent 6,230,288, and in further view of Berkland et al., U. S. Patent 4,648,047.

As to claims 9, 19 and 29, Downs modified by Ogilvie and Kuo teaches applying a particular pattern in the data as discussed above. Downs modified by Ogilvie does not specifically teach the pattern comprises each instance of a particular group of characters in the data being underscored throughout the data. However, Berkland teaches inserting underscore function into a file (column 10 lines 17-24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the particular group of characters in the teaching of Downs modified by Ogilvie and Kuo to be underscored throughout the data because this would provide sellers more choices with additional various patterns that can be added to the data so that the sellers' products can be better protected.

8. Claims 10, 20 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al., U. S. Patent 6,226,618 in view of Ogilvie, U. S. Patent 6,343,738, U. S. Patent 6,343,738 and Kuo et al., U. S. Patent 6,230,288, and in further view of Astola et al., U. S. Patent 6,094,722.

As to claims 10, 20 and 30, Downs modified by Ogilvie and Kuo teaches determining if the copy of the data is authorized or not (Downs: column 7 line 41 – column 8 line 5). Downs modified by Ogilvie and Kuo does not specifically teach determining a first sum of numerical values of bytes representing the data stored in the



one or more databases for later comparison with a second sum of numerical values of bytes representing data from another source to determine whether the data from the other source is a copy of the data from the one or more databases. However, this matter is taught by Astola as determining whether a file is original by comparing the sum of numerical byte values of the file with the checksum of the original data (column 1 lines 45-54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the teaching of Downs modified by Ogilvie and Kuo to include the feature of determining whether a data is original by comparing the sum of numerical byte values of the data with the checksum of the original data for quickly determining the source of the data.

### ***Inquire***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Cheung whose telephone number is (571)-272-6705. The examiner can normally be reached on Monday – Thursday from 10:00 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached on (571) 272-6712.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax phone number for the organization where this application or proceedings is assigned are as follows:

(571) 273-8300      (Official Communications; including After Final  
Communications labeled "BOX AF")  
(571) 273-6705      (Draft Communications)

Mary Cheung  
Primary Examiner  
Art Unit 3621  
March 20, 2006

  
**MARY D. CHEUNG  
PRIMARY EXAMINER**